

LAW OFFICES OF GENE MESH AND ASSOCIATES

2 December 2003

By Fax 579.6457

James E. Burke, Esq.
KEATING, MUETHING & KLEKAMP, P.L.L.
1400 Provident Tower
One East Fourth Street
Cincinnati, Ohio 45202-3752

Re: OHSL

Dear Mr. Burke:

In response to your letter of 2 December 2003, I offer the following thoughts. First, I am unwilling to negotiate the points you raise in paragraph one, and I am unwilling to re-litigate issues that have already been decided. One way or another, I will ultimately get the discovery I seek, despite your obstructionist tactics.

You must be heartened that these tactics are bearing fruit, since you indicate that Mr. Brinker is unable to be deposed "at this time." I'm not sure that I agree with this position. His trouble walking is not a concern, since I am willing to accommodate Mr. Brinker by deposing him where he is located. You also claim that a lump was discovered near his lung, but it is unclear what, if anything, that has to do with his ability to be deposed. If Mr. Brinker's mind is clear, I suggest that we do the deposition immediately. I understand that Mr. Brinker may be in a weakened condition and that he may only be able to be deposed for a short period of time—perhaps an hour or so—but as the former Chairman of the Board of a public company who is a defendant in this litigation, I need to depose him, and I have a Court Order permitting his deposition to go forward. In short, I do not accept your representation that Mr. Brinker is unable to be deposed at this time. Please provide medical documentation that Mr. Brinker is utterly unable to be deposed, and in support of your position.


Second, Ms. Rowe indicated that Mr. Hanauer is available only on 22 December 2003—a time when I plan to be out of the country (though my travel plans are not yet finalized). In any event, offering a single day during Christmas week is completely inconsistent with your earlier assurances that the depositions of the individuals I sought in October 2003 once the stay was lifted would be possible in 2003. Please provide other dates—not including Christmas week—in December 2003 for Mr. Hanauer's deposition.



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Third, with respect to Ms. Weiland's deposition, with all due respect, your presence at the deposition is not a condition precedent for its taking place. The numerous camps of mutually antagonistic camps of defendants KMK claims to represent (even after KMK was disqualified) could perhaps muddle through with the representation of Dan Donnellon or Rachel Rowe, or perhaps their trial counsel at Graydon Head & Ritchey. Additionally, Ms. Weiland's being "willing to appear for a deposition" is entirely irrelevant, though of course, she is to be commended for her cooperation. Willing or not, she will be deposed. Please provide dates.

Sincerely,



Michael G. Brautigam

cc: All Counsel by Fax

2805 Burnet Avenue
at Taft Road
Cincinnati, Ohio 45219

TELEPHONE
(513) 221-8800

FAX
(513) 221-1097



LAW OFFICES OF GENE MESH AND ASSOCIATES

5 December 2003

To All Counsel on the Attached Service List

Re: OHSL

Dear Counsel:

As I indicated to each of you on the phone, I need to obtain guidance from Magistrate Judge Hogan on how to proceed with depositions of Norbert Brinker and the OHSL director defendants, many of whom are elderly and may be in poor health.

Magistrate Judge Hogan's chambers has graciously indicated that he is available on **Tuesday 9 December 2003 @ 9:30am** to conduct this conference. Please call his chambers @ 513 564 7650 five minutes before the start of the conference call.

Thank you for your cooperation.

Sincerely,



Michael G. Brautigam

2505 Burnet Avenue
at 1st Road
P.O. Box 28073
Cincinnati, Ohio 45226

TELEPHONE
(513) 221-8800

FAX
(513) 221-1097

